

APPEAL NO. 040343  
FILED MARCH 30, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 22, 2004. With respect to the single issue before him, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the ninth quarter. In his appeal, the claimant argues that the hearing officer's determinations that he did not satisfy the good faith requirement pursuant to Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(2) (Rule 130.102(d)(2)) by satisfactorily participating in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) in the qualifying period for the ninth quarter and that he is not entitled to SIBs for that quarter are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_; that he was assigned an impairment rating of 15% or greater; that he did not commute his impairment income benefits; and that the qualifying period for the ninth quarter of SIBs ran from June 29 to September 27, 2003. Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Rule 130.102. The SIBs criterion in issue is whether the claimant satisfied the good faith requirement by satisfactorily participating in a full-time vocational rehabilitation program sponsored by the TRC pursuant to Rule 130.102(d)(2).

The evidence in the record and the claimant's testimony reveal that during the period of time that corresponds with the qualifying period for the ninth quarter, the claimant attended classes at a local community college working toward a goal of obtaining an associate's degree in computer networking. There are two Individualized Plans for Employment (IPE) in evidence that the claimant signed with a counselor at TRC. One is dated August 24, 2001, and an amended IPE is dated December 10, 2003. The claimant testified that in accordance with the August 24, 2001, IPE, he attended classes at the community college and in December 2001 he obtained a Cisco certificate, which demonstrated that he was certified to do "computer trouble shooting." The claimant stated that he looked for work after he obtained that certificate for about a year and then he decided to return to school at the community college in January 2003 at his own expense, to work towards his associate's degree. In his discussion, the hearing officer stated "[t]he persuasive evidence here is to the effect that, although the claimant was attending college and taking vocational-type courses during the time period in issue, he was not doing so under TRC 'sponsorship'; TRC involvement, if present at all, could at best be characterized as 'monitoring' the claimant's progress." The claimant cites to Texas Workers' Compensation Commission Appeal No. 031767-s, decided August 25, 2003, and argues that the claimant's action of attending classes

satisfies the requirement of Rule 130.102(d)(2) because TRC sponsorship of a vocational rehabilitation program is not limited to funding of those services. While it is true that the term “sponsorship” is not limited to TRC funding of the program, we cannot agree that Appeal No. 031767-s necessitates reversal in this case. In Appeal No. 031767-s, the evidence established that even though the TRC did not pay for the GED classes that the claimant took during the qualifying period, the TRC did make arrangements for the claimant to attend those classes. In this instance, as the hearing officer noted, the evidence simply does not establish that the TRC made any arrangements relative to the claimant’s attending classes during the qualifying period. The hearing officer determined that the evidence demonstrates that the TRC was doing little more than monitoring the claimant’s progress. The hearing officer’s determination in that regard is not so against the great weight of the evidence as to be clearly wrong or manifestly unjust; thus, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Under the guidance of Texas Workers' Compensation Commission Appeal No. 010497-s, decided April 17, 2001, the hearing officer did not err in determining that the claimant did not satisfy the good faith requirement under Rule 130.102(d)(2) or in his determination that the claimant is not entitled to SIBs for the ninth quarter because he was not persuaded that the vocational program that the claimant pursued during the qualifying period was sponsored by the TRC.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**LEO F. MALO  
12222 MERIT DRIVE, SUITE 700  
DALLAS, TEXAS 75251.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Edward Vilano  
Appeals Judge